

Plaintiff Jose Luis Perez, Jr. (“Perez”) originally filed a wrongful discharge lawsuit against Defendants in the 293rd District Court of Maverick County, Texas on August 9, 2017 alleging Texas state law breach of contract and mandamus claims. On October 18th and 19th, 2021, Perez filed his Second and Third Amended Petitions, respectively, and, for the first time, asserted First and Fourteenth Amendment and procedural due process claims under 42 U.S.C. §1983. Pursuant to 28 U.S.C. § 1446(b), Defendants file this Notice of Removal within thirty days of receiving service of

the first pleading in which Perez alleged claims removable pursuant to 28 U.S.C. §§ 1331 and 1441.

II.

ARGUMENT AND AUTHORITIES

A. Perez’s Municipal Liability Claim

1. Defendants incorporate all preceding paragraphs as if fully set forth herein.
2. Removal of a state court action to federal court is proper under 28 U.S.C. § 1331 if the plaintiff’s claims arise under the constitution, laws, or treaties of the United States. 28 U.S.C. §1331. In his live pleading, Perez asserts a “municipal liability” claim pursuant to 42 U.S.C. § 1983.

B. Perez’s First Amendment Retaliation Claim

1. Defendants incorporate all preceding paragraphs as if fully set forth herein.
2. Removal of a state court action to federal court is proper under 28 U.S.C. § 1331 if the plaintiff’s claims arise under the constitution, laws, or treaties of the United States. 28 U.S.C. §1331. In his live pleading, Perez asserts a “First Amendment” retaliation claim pursuant to the First and Fourteenth Amendment of the United States Constitution.

C. Perez’s Procedural Due Process Claim

1. Defendants incorporate all preceding paragraphs as if fully set forth herein.
2. Removal of a state court action to federal court is proper under 28 U.S.C. § 1331 if the plaintiff’s claims arise under the constitution, laws, or treaties of the United States. 28 U.S.C. §1331. In his live pleading, Perez asserts a “procedural due process” claim pursuant to the Fourteenth Amendment of the United States Constitution.

D. Removal Is Procedurally Proper

1. The record demonstrates that Perez asserts claims that “arise under” federal law, which justifies removal pursuant to federal statute. Further, venue is proper in the Western District

of Texas, Del Rio Division under 28 U.S.C. § 1446(a) because a substantial portion of the events giving rise to Perez's causes of action occurred in Maverick County, Texas.

2. Defendants received Plaintiff's Second and Third Amended Petitions on October 18th and 19th, 2021. These pleadings were the first pleadings, documents, or other papers from which Defendants could ascertain that Perez invoked federal question jurisdiction making his lawsuit immediately removable. The record reflects that Defendants have filed their Notice of Removal within the thirty-day removal window defined by 28 U.S.C. § 1446(b)(3).

3. Defendants have annexed all pleadings, processes, summons, orders, and all other filings in the state court action.¹ The contents of all filings in the state court action are as follows:

- a. Exhibit D-1, Plaintiff's Original Petition;
- b. Exhibit D-2, Plaintiff's First Amended Petition;
- c. Exhibit D-3, Plaintiff's Second Amended Petition;
- d. Exhibit D-4, Plaintiff's Third Amended Petition;
- e. Exhibit D-5, Defendants' Original Answer; and
- f. Exhibit D-6, Defendants' First Amended Original Answer.

4. Defendants will promptly file a copy of this Notice of Removal with the clerk of the state court in which the action is pending.

III. PRAYER

WHEREFORE, PREMISES CONSIDERED, DEFENDANTS MAVERICK COUNTY JUVENILE PROBATION DEPARTMENT and MAVERICK JUVENILE BOARD respectfully request that this action be removed from the 293rd District Court, Maverick County, Texas, to the

¹ 28 U.S.C. §1441(a).

United States District Court for the Western District of Texas, Del Rio Division.

Respectfully submitted,

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CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and correct copy of the above and foregoing Defendants' Notice of Removal has been delivered via E-File Notification on this the *via* E-File Notification on this the 27th day of October 2021 to William D. Mount, Jr., Esq., Dale & Klein, LLP, 1100 E. Jasmine, Suite 202, McAllen, Texas 78501.

/s/ Mark Anthony Sánchez
MARK ANTHONY SÁNCHEZ, ESQ.
JAKOB FREDERICK WEISSLER, ESQ.